S.B. Civil Writ Petition NO.3628/1998
Branch Manager, Marwar Gramin Bank, Sadari

vs

Lrs of Late Sh.Mitha Lal

S.B.Civil Writ Petition No.2630/1998
Branch Manager, Marwar Gramin Bank, Sadari

vs

LRs of Late Sh. Ashok Kumar

DATE OF ORDER : - 29.3.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr.M.D.Purohit, Sr.Advocate , for the petitioner.
Mr.R.K.Thanvi, for the respondent.

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Heard learned counsel for the parties.

Few facts relevant for the purpose of deciding the writ petitions are that one Mitha Lal availed the loan facility from the petitioner bank in the year 1978 to purchase two bufallows and to run the business of '*Papad Badi*' and on his request of 1978 for loan, the bank paid that petty amount to the said Mitha Lal on 22nd April, 1981. A petition was submitted before the Asstt. Collector, Desuri, Pali for recovery of the said amount on 26th July, 1993 after more than 12 years. The proceedings were initiated against the dead person Mitha Lal. After notice it was pointed out that Mitha Lal died about 12 years ago. The

petitioner bank submitted an application that the petitioner bank could come to know about the death of Mitha Lal subsequently and, therefore, his legal representatives be taken on record. The Asstt. Collector rejected the petitioner's application and held the proceedings as abated vide order dated 25th Sept., 1996.

The petitioner bank preferred appeal in the court of Addl. District Judge, Bali. The appeal was dismissed by the learned Addl. District Judge, Bali vide order dated 11th March, 1997 holding that the appeal itself is not maintainable.

The petitioner preferred this writ petition challenging the orders of the Asstt Collector as well as appellate court. According to learned Sr.Advocate Sh.M.D.Purohit there was a conflict about the legal position whether the order passed by the Asstt. Collector in the proceeding for recovery of the bank amount initiated under the provisions of Rajasthan Agricultural (Removal of Difficulties) Act, 1974 is appeable or that can be challenged only by filing writ petition.

Be that as it may, this court perused the facts of the case and found that a loan of Rs.4,000/- and Rs.2,000/- was applied for in the year 1978, which was disbursed in the year 1981 and the proceedings for recovery of the above amount was initiated in the year 1993 and the

said proceedings were dismissed by the competent authority holding that the plea taken by the petitioner bank for condonation of delay appears to be wrong and steps have not been taken for brining on record the legal representatives of a very small borrower in time and since now more than 26 years have already passed, this court is not inclined to interfere in the order passed by the Asstt. Collector, Desuri dated 25th Sept., 1996 so as to permit the petitioner bank to continue with the proceedings for a loan of the year 1981 amounting to total rupees alongwith interest till 1993 Rs.10,757/- only against the persons, who themselves are not the borrowers but are the successor of the borrower only.

In view of the above reasons only , the writ petitions of the petitioners are dismissed.

(Prakash Tatia), J.

c.p.goyal/-